

REMARKS

Applicants appreciate the Examiner's thorough consideration provided in the present application. Claims 1-16 are currently pending in the instant application. Claims 3, 7, 11 and 15 have been amended. Claims 1, 3, 7, 9, 11 and 15 are independent. Reconsideration of the present application is earnestly solicited.

Allowable Subject Matter

Applicants appreciate the Examiner's indication of allowable subject matter. Specifically, the subject matter of claims 3-8 and 11-16 has been indicated as being allowable if rewritten in independent format. Without conceding the propriety of the Examiner's rejection, Applicants have amended claims 3, 7, 11 and 15 into independent format. Accordingly, as indicated by the Examiner in the Office Action, claims 3-8 and 11-16 should be allowed.

However, as discussed in greater detail hereinafter, Applicants submit that the remaining claims of the present application should also be allowed and the present application should be passed to Issue.

Drawings

Applicants appreciate the Examiner's indication of acceptance of the formal drawings filed by Applicants on February 2, 2000. Accordingly, Applicants are not required to take any further action with respect to the drawings of the present application.

Priority

Applicants appreciate the Examiner's indication of acceptance of the certified copy of the corresponding priority document for the present application.

Information Disclosure Statement

Applicants respectfully request an initialed copy of the Information Disclosure Statement (IDS) filed on April 24, 2000. Applicants submit that a copy of this timely filed IDS has not yet been provided to Applicants from the U.S. Patent Office.

Specification

The disclosure has been objected to due to the presence of potential informalities. Without conceding the propriety of the Examiner's objection to

the specification, but merely to expedite the prosecution of the present application, Applicants have voluntarily amended the specification to address the alleged informalities cited by the Examiner. However, these non-narrowing amendments have not been made responsive to any statutory rejection advanced by the Examiner.

Claim Rejections Under 35 U.S.C. § 103

Claims 1 and 9 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Miyano (U.S. Patent No. 5,659,357) in view of Okino (U.S. Patent No. 4,847,680). Claims 2 and 10 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Miyano in view of Okino, and further in view of Tsujimoto (U.S. Patent No. 6,201,932). These rejections are respectfully traversed.

Applicants submit that the prior art of record fails to teach or suggest each and every element of the unique combination of limitations of the claimed invention. For example, Applicants submit that the prior art of record fails to teach or suggest the unique combination of limitations of claim 1, including the feature(s) of: *“(f) determining a type of a light source with which the subject is illuminated according to the luminance level of the subject determined at step (a) and the number of the areas belonging to the determination frame found at step*

(e); and (g) adjusting a white balance *according to the type of the light source determined at step (f).*" (emphasis added) Accordingly, these rejections should be withdrawn.

With respect to claim 9, Applicants submit that the prior art of record fails to teach or suggest the unique combination of limitations of the claimed invention, including the feature(s) of: "a light source type determining device that *determines a type of a light source with which the subject is illuminated according to the luminance level of the subject determined by the luminance level determining device and the number of the areas belonging to the determination frame found by the number of areas finding device*; and a white balance adjusting device that *adjusts a white balance according to the type of the light source determined by the light source type determining device.*" (emphasis added) Accordingly, these rejections should be withdrawn.

It appears that the Examiner has admitted that the Miyano reference fails to teach or suggest the above-emphasized features of the claimed invention. However, Applicants submit that this is not an oversight by Miyano and/or a feature that one of ordinary skill in the art would have modified Miyano to include. Applicants submit that if the Miyano and/or Okino references are viewed in their entirety, it will be apparent that the prior art of

record fails to teach or suggest the unique combination of limitations of the claimed invention.

In Miyano, the purpose or objective of the described auto white balance adjustment device is to adjust the white balance based upon a "brightest block average value." (see Abstract, FIG. 1 and col. 1, lines 52-68 through col. 2, lines) However, Miyano does not attempt to identify any particular light source, but instead is specifically aimed at providing auto white balance adjustment without identifying any particular light source. Therefore, the Examiner's suggestion that this feature should be added to the Miyano device appears to be in contrast to the express teachings of the Miyano reference. For example, Miyano states that the "white balance can be appropriately adjusted by using this value, irrespective of the kinds of light sources;" (Abstract) and "the present invention provides a device for appropriately adjusting the white balance of an image of the subject irradiated by a plurality of light sources or by an unidentified light source." (col. 2, lines 5-11) Accordingly, Miyano's device is designed to achieve white balance adjustment without reliance upon the identification of a particular light source.

Therefore, it would not have been obvious to add the alleged light source determining device of Okino to the Miyano device, as Mikano appears to specifically avoid incorporating this type of feature. However, Applicants

submit that the prior art of record would still fail to teach or suggest each and every limitation of the unique combination of limitations of the claimed invention even if the alleged light source determining device of Okino were added to the Miyano device as alleged by the Examiner.

In Okino, a luminance level is merely evaluated to determine if the luminance level is greater than a threshold value *in order to decide whether or not to use an object illuminating device*. However, Okino fails to teach or suggest determining the type of light source that is illuminating a subject in accordance with the luminance value. Therefore, Applicants submit that the prior art of record still fails to teach or suggest each and every feature of the claimed invention emphasized hereinabove.

As to the dependent claims, Applicants respectfully submit that these claims are allowable due to their dependence upon an allowable independent claim, as well as for additional limitations provided by these claims.

CONCLUSION

Since the remaining references cited by the Examiner have not been utilized to reject the claims, but merely to show the state-of-the-art, no further comments are deemed necessary with respect thereto.

All the stated grounds of rejection have been properly traversed and/or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently pending rejections and that they be withdrawn.

It is believed that a full and complete response has been made to the Office Action, and that as such, the Examiner is respectfully requested to send the application to Issue.

In the event there are any matters remaining in this application, the Examiner is invited to contact Matthew T. Shanley, Registration No. 47,074 at (703) 205-8000 in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 

Marc S. Weiner
Reg. No. 32,181

MSW/MTS/cl

P. O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000